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**IN THE UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF WYOMING**

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| **MCCLELLAN RATCHFORD and ALYSSA K. RATCHFORD, Individually and as the Natural Parents and Natural Guardians of W.M.R. and W.J.R., Their Natural Children,** | |
| **Plaintiffs,** | **Civil No.** 16-cv-284-F |
| **v.** | |
| **FRANCIS DRILLING FLUIDS, LTD, a Foreign Business Entity,** | |
| **Defendant.** | |

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## COMPLAINT AND DEMAND FOR JURY TRIAL

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For their claims for relief against the defendant, Plaintiffs McClellan Ratchford and Alyssa K. Ratchford---by and through their counsel---state and allege as follows:

## I. PARTIES

1. McClellan Ratchford is a citizen and resident of Natrona County, Wyoming, the husband of Alyssa K. Ratchford, and the father of W.M.R. and W.J.R., minor children.

2. Alyssa K. Ratchford is a citizen and resident of Natrona County, Wyoming, the wife of McClellan Ratchford, and the mother of W.M.R. and W.J.R., minor children.

3. W.M.R. is a citizen and resident of Natrona County, Wyoming, the son of McClellan Ratchford and Alyssa K. Ratchford, and a minor child, having been born in 2001.

4. W.J.R. is a citizen and resident of Natrona County, Wyoming, the son of McClellan Ratchford and Alyssa K. Ratchford, and a minor child, having been born in 2003.

5. Defendant Francis Drilling Fluids, Ltd. ("Francis Drilling Fluids" and "Francis Drilling"), is a for profit corporation organized under the laws of the State of Louisiana. It has various company locations or branches in multiple states, including Wyoming, Texas, Oklahoma, Louisiana, and Arkansas.

6. On July 8, 2016 and at all times relevant hereto, Francis Drilling Fluids was doing and transacting business in the State of Wyoming through its company branch office located at 3029 Killpecker Drive, Rock Springs, Wyoming 82901. Francis Drilling Fluids was authorized to do business in Wyoming at all times relevant hereto, having received a certificate of authority to transact business in the state of Wyoming and having maintained a registered agent within the State of Wyoming.

7. As a for profit corporation, Francis Drilling Fluids can only act through its officers, directors, employees, and agents. As the employer of those who set policy and who are involved with its business operations, Francis Drilling Fluids is liable for the acts and omissions of its officers, directors, employees, and agents, including but not limited to Mayjor Lee Long.

## II. JURISDICTION

8. This Court has original jurisdiction over the subject matter of this action under 28 U.S.C. §1332(a)(1) in that there is complete diversity of citizenship between the plaintiffs (who are citizens of the state of Wyoming) and the defendant (which is a citizen of the state of Louisiana).

9. The matters in controversy are personal injury actions and the amount in controversy for each plaintiff (including each minor child) exceeds the sum of Seventy-Five Thousand Dollars ($75,000.00) exclusive of interest and costs in conformity with the provisions of 28 U.S.C. §1332(a).

## III. VENUE

10. Venue of this action lies in this judicial district under 28 U.S.C. §1391(b)(2).

11. This case arises from a truck collision on July 8, 2016 at the intersection of Wyoming Highway 220 and Wyoming Highway 257 in Natrona County, Wyoming.

## IV. FACTS COMMON TO ALL CLAIMS FOR RELIEF

12. On July 8, 2016, at approximately 11:10 a.m., Mr. Ratchford, Mrs. Ratchford, W.M.R., and W.J.R. were driving westbound on Wyoming Highway 220 on their way to Alcova Lake. They were riding in the family's 1997 Ford Expedition, towing the family's boat on a trailer. The rear-most bench seat was removed, leaving room for the family's two dogs, scuba gear, and scuba tanks. The two boys were in the middle bench seat, immediately behind their parents.

13. Francis Drilling Fluids owned and operated a 2007 Peterbilt Truck ("the Francis Drilling Fluids truck") that was being driven by Francis Drilling Fluids' employee, Mayjor Lee Long (hereinafter "the Francis Drilling employee" or "Mr. Long").

14. The weather was clear, the road surfaces were dry, and the visibility was open and unrestricted.

15. The Francis Drilling employee had been traveling eastward on Wyoming Highway 220 and was approaching the intersection with Wyoming Highway 257, a belt loop highway that bypasses the City of Casper and connects to U.S. Highway 20/U.S. Highway 26 (the Shoshoni Highway) in Mills and Mountain View. In spite of the fact that the Ratchford family vehicle was

traveling westward on the same highway and in spite of the fact that it was clearly visible and evident, the Francis Drilling employee turned the Francis Drilling Fluids truck to the left into the entrance to Wyoming Highway 257, traveling through the intersection and directly into the path of the Ratchford family vehicle.

16. Mr. Ratchford was driving the family vehicle in the right hand lane of travel on Wyoming Highway 220. As the Francis Drilling Fluids truck turned into the intersection and moved into the same lane being traveled by the Ratchford family vehicle, it was impossible to avoid the collision. According to the investigation prepared by the Wyoming Highway Patrol, the following events transpired:

a. Mr. Ratchford emergently applied the brakes but, within 39 feet, the Ford Expedition struck the Peterbilt truck at the front wheel as the Peterbilt was continuing its left hand turn, grinding itself into the passenger side of the Ford Expedition and causing greater damage and intrusion to that side of the vehicle, the side where Mrs. Ratchford was the passenger in the front seat.

b. The continued movement of the Peterbilt transferred a clockwise rotation into the Ford Expedition, inducing a spin that was to arc 180 degrees.

c. As the Expedition spun around, the boat and boat trailer combination snapped off the hitch and continued forward, slamming into the back of the Expedition on the passenger side as it continued its clockwise spin. The boat/trailer combination then struck the Peterbilt and the boat and trailer were then deflected away.

d. The Peterbilt continued with its turn as the Expedition continued with its spin. The vehicles collided again, the Peterbilt smashing in the rear of the Expedition.

e. In one final act of destruction, the Peterbilt hit a Toyota FJ Cruiser that was sitting at the stop sign at Wyoming Highway 257. And then, finally, the Francis Drilling Fluids truck stopped.

17. The front of the Ratchford vehicle was demolished. The passenger side in the rear, and the back end of the vehicle, were collapsed in part from the collision with the boat/trailer combination but more as a result of the second collision---as the spinning Expedition was struck by the Francis Drilling Fluids truck as it continued its unabated turn. The front air bags deployed. Mrs. Ratchford and W.J.M. were knocked unconscious. After emergency personnel arrived, W.J.M. was life-flighted to Wyoming Medical Center with head injuries and the other family members were transported by ambulance.

a. W.J.M. had deep scalp lacerations. He suffered a concussion. He sustained significant contusions and bruising.

b. W.M.R. sustained a fractured left wrist that was treated by closed reduction under general anesthesia and a cast, a broken jaw that required surgical intervention, and a gash on his right leg that required surgical exploration and subsequent closure as well as exploration for tendon damage.

c. Mrs. Ratchford suffered severe, open, and comminuted right pilon fractures---the lower tibia and fibula where they articulate with the ankle joint. The severity of the fractures compromised the blood supply, resulting in an ischemic condition that required emergency surgery to reduce the fractures and reestablish the blood supply. The fractures extended to the talus, the bone that constitutes the lower part of the ankle joint. The ankle fractures subsequently required a second surgery for open reduction with internal fixation and repair, together with ligament repair. Her left hand sustained multiple fractures as well as tendon injury. She had multiple lacerations to the scalp and face. She suffered 5 rib fractures on the left---to the 6th, 7th, 8th, 9th, and 10th ribs. She required a left carpal tunnel release. She sustained severe whiplash resulting in significant stiffness and neck pain.

d. Mr. Ratchford suffered spinal fractures of the transverse processes of L-1, L-2, and L-3 as well as three left rib fractures---the 6th, 8th, and 9th ribs. He sustained significant upper abdominal bruising and contusions and cuts to the top of his head and the back of his left shoulder.

18. The Francis Drilling Fluids employee consciously and deliberately operated the Peterbilt truck with reckless and willful disregard for safety, exposing the traveling public (including the Ratchford family) to the extraordinary risks of harm inherent in that conduct. The conduct violated basic, fundamental safety principles but it also violated specific criminal statutes enacted to assure that drivers would not engage in the conduct chosen by the Francis Drilling Fluids employee---and that were enacted to punish those who engaged in such conduct in violation of those statutes (the "Francis Drilling Fluids misconduct"). The violations included the following:

a. Violation of § 31-5-221, W.S. 1977 as amended (Illegal Left Turn).

b. Violation of § 31-5-223, W.S. 1977 as amended (Failure to Yield Right-of-Way).

c. Violation of § 31-5-229, W.S. 1977 as amended (Reckless Driving).

d. Violation of § 31-5-236, W.S. 1977 as amended (Careless Driving).

e. Violation of § 6-2-504(a), W.S. 1977 as amended (Reckless Endangering).

19. By virtue of the statutory violations as described herein, Francis Drilling Fluids was negligent *per se*.

20. McClellan Ratchford. Alyssa K. Ratchford, W.M.R., and W.J.R. are within the class of persons the laws were designed to protect and the violations of such laws proximately caused injuries to each of them.

21. The Francis Drilling Fluids misconduct was the proximate cause of the injuries to McClellan Ratchford. Alyssa K. Ratchford, W.M.R., and W.J.R. and the damages sustained by each of them. The misconduct was attended by negligent acts and omissions. But the misconduct also included acts and omissions characterized by (a) willful and wanton misconduct, (b) acts and omissions undertaken in reckless disregard of the consequences and under circumstances and conditions that a reasonable person would know, or have reason to know, that such conduct would, in a high degree of probability, result in harm to another, (c) acts and omissions undertaken in willful disregard of the need to act despite the awareness of the high probability that serious injury or death may result, and (d) acts and omissions undertaken with knowledge of the hazard or serious nature of the risk involved, or undertaken under circumstances in which the defendant should reasonably have had knowledge of the hazard or serious nature of the risk involved.

22. The defendant is liable for punitive and exemplary damages. Punitive and exemplary damages should be assessed against Francis Drilling Fluids to deter this defendant and others similarly situated from future similar misconduct that evidences reckless disregard for the safety and lives of Wyoming citizens.

## V. FIRST CLAIM FOR RELIEF: NEGLIGENCE (VICARIOUS LIABILITY)

23. Plaintiffs hereby incorporate all statements and allegations contained in paragraphs 1 through 22 above as if fully set forth herein.

24. At all times while operating the Francis Drilling truck, Mr. Long was acting within the course and scope of his employment for, and for the economic benefit of, Defendant Francis Drilling Fluids, Ltd.

25. By virtue of the doctrine of *respondeat superior*, Defendant Francis Drilling is vicariously liable for the acts and omissions of Mr. Long.

26. At all times while operating the Francis Drilling truck on July 8, 2016, Mr. Long and Francis Drilling owed duties of care to the members of the Ratchford family.

27. At the time and place of the crash, Mr. Long was operating the Francis Drilling truck in knowing and deliberate disregard of the safety of those using the public highways (including the members of the Ratchford family), placing the members of the Ratchford family and all others using the public highways at substantial and unwarranted risk of serious personal injury or death.

28. By his driving misconduct as described above, Mr. Long violated multiple Wyoming statutes, including the following: § 31-5-223, W.S. 1977 as amended (Failure to Yield Right-of-Way); § 31-5-221, W.S. 1977 as amended (Illegal Left Turn); § 31-5-229, W.S. 1977 as amended (Reckless Driving); and § 31-5-236, W.S. 1977 as amended (Careless Driving); §6-2-504(a), W.S. 1977 as amended (Reckless Endangering).

29. At the time and place of the crash, the members of the Ratchford family were within the class of persons intended to be protected by the statutes violated by Mr. Long as described herein. The negligent misconduct of Mr. Long constitutes negligence *per se*.

30. Mr. Long and Francis Drilling Fluids owed duties of care to the members of the Ratchford family and those duties of care were breached by the negligent misconduct of Mr. Long.

31. The injuries to the members of the Ratchford family were proximately caused by the negligent misconduct of Mr. Long.

32. As a proximate result of the negligent misconduct of Mr. Long (for which Defendant Francis Drilling Fluids is vicariously liable), the members of the Ratchford family were severely injured and damaged as is more specifically detailed in that section of this Complaint denominated as "Damages."

## VI. SECOND CLAIM FOR RELIEF: NEGLIGENT HIRING, TRAINING, AND RETENTION

33. Plaintiffs hereby incorporate all statements and allegations contained in paragraphs 1 through 32 above as if fully set forth herein.

34. Defendant Francis Drilling Fluids had a duty to exercise reasonable care in the hiring, training, and retention of its employees, including but not limited to assuring that its employees were capable of safely operating vehicles to which they were given access and permission to use.

35. Defendant was negligent in its hiring, training, and retention of Mr. Long (as a person who would have the propensity to turn an 18-wheel semi-truck and trailer directly into the path of an on-coming vehicle in broad daylight and under completely clear conditions) in a position in which he was permitted to operate the Francis Drilling truck and expose the public, including the members of the Ratchford family, to the consequent hazards. Francis Drilling negligently hired and retained Mr. Long and negligently failed to provide appropriate training to ameliorate the risks associated with his hiring and retention.

36. Francis Drilling Fluids owed duties of care to the members of the Ratchford family and those duties of care were breached by the negligent misconduct of the defendant.

37. The injuries to the members of the Ratchford family were proximately caused by the negligent misconduct of Francis Drilling Fluids.

38. As a proximate result of the negligent misconduct of Francis Drilling Fluids, the members of the Ratchford family were severely injured and damaged as is more specifically detailed in that section of this Complaint denominated as "Damages."

## VII. THIRD CLAIM FOR RELIEF: NEGLIGENT SUPERVISION

39. Plaintiffs hereby incorporate all statements and allegations contained in paragraphs 1 through 38 above as if fully set forth herein.

40. Defendant Francis Drilling Fluids had a duty to exercise reasonable care in supervising and monitoring its employees, including Mr. Long, to assure that its employees were capable of safely operating vehicles to which they were given access and permission to use.

41. Defendant Francis Drilling Fluids negligently supervised and monitored its employees, including Mr. Long---a person who would have the propensity to turn an 18-wheel semi-truck and trailer directly into the path of an on-coming vehicle in broad daylight and under completely clear conditions.

42. Francis Drilling Fluids owed duties of care to the members of the Ratchford family and those duties of care were breached by the negligent misconduct of Francis Drilling Fluids.

43. The injuries to the members of the Ratchford family were proximately caused by the negligent misconduct of Francis Drilling Fluids.

44. As a proximate result of the negligent misconduct of Francis Drilling Fluids, the members of the Ratchford family were severely injured and damaged as is more specifically detailed in that section of this Complaint denominated as "Damages."

## VIII. FOURTH CLAIM FOR RELIEF: NEGLIGENT ENTRUSTMENT

45. Plaintiffs hereby incorporate all statements and allegations contained in paragraphs 1 through 44 above as if fully set forth herein.

46. Defendant Francis Drilling Fluids had a duty to exercise reasonable care in entrusting company-owned vehicles to its employees, including Mr. Long, to assure that its employees were capable of safely operating vehicles to which they were given access and permission to use.

47. Defendant Francis Drilling Fluids knew or should have known that Mr. Long's conduct---as a person who would have the propensity to turn an 18-wheel semi-truck and trailer directly into the path of an on-coming vehicle in broad daylight and under completely clear conditions---would subject third parties to an unreasonable risk of harm.

48. Defendant Francis Drilling Fluids negligently entrusted the Francis Drilling truck to Mr. Long.

49. Francis Drilling Fluids owed duties of care to the members of the Ratchford family and those duties of care were breached by the negligent misconduct of Francis Drilling Fluids.

50. The injuries to the members of the Ratchford family were proximately caused by the negligent misconduct of Francis Drilling Fluids.

51. As a proximate result of the negligent misconduct of Francis Drilling Fluids, the members of the Ratchford family were severely injured and damaged as is more specifically detailed in that section of this Complaint denominated as "Damages."

## V. DAMAGES

52. Plaintiffs hereby incorporate all statements and allegations contained in paragraphs 1 through 51 above as if fully set forth herein.

53. As a direct and proximate result of the defendant's misconduct, the members of the Ratchford family were injured and are entitled to recover damages in this matter.

54. As a direct and proximate result of the defendant's misconduct, McClellan Ratchford was injured and is entitled to recover the following damages:

a. Physical pain and suffering in an amount to be proven at trial.
b. Emotional pain and suffering in an amount to be proven at trial.
c. Loss of enjoyment of life in an amount to be proven at trial.
d. Loss of earnings and earning capacity in an amount to be proven at trial.
e. Medical and related expenses in an amount to be proven at trial.
f. Property damage in an amount to be proven at trial.
g. Punitive damages in an amount to be proven at trial.
h. Exemplary damages in an amount to be proven at trial.

55. As a direct and proximate result of the defendant's misconduct, Alyssa K. Ratchford was injured and is entitled to recover the following damages:

a. Physical pain and suffering in an amount to be proven at trial.
b. Emotional pain and suffering in an amount to be proven at trial.
c. Loss of enjoyment of life in an amount to be proven at trial.
d. Property damage in an amount to be proven at trial.
e. Medical and related expenses in an amount to be proven at trial.
f. Punitive damages in an amount to be proven at trial.
g. Exemplary damages in an amount to be proven at trial.

56. As a direct and proximate result of the defendant's misconduct, W.M.R. was injured and is entitled to recover the following damages:

a. Physical pain and suffering in an amount to be proven at trial.

b. Emotional pain and suffering in an amount to be proven at trial.

c. Loss of enjoyment of life in an amount to be proven at trial.

d. Medical and related expenses in an amount to be proven at trial.

e. Punitive damages in an amount to be proven at trial.

f. Exemplary damages in an amount to be proven at trial.

57. As a direct and proximate result of the defendant's misconduct, W.J.R. was injured and is entitled to recover the following damages:

a. Physical pain and suffering in an amount to be proven at trial.

b. Emotional pain and suffering in an amount to be proven at trial.

c. Loss of enjoyment of life in an amount to be proven at trial.

d. Medical and related expenses in an amount to be proven at trial.

e. Punitive damages in an amount to be proven at trial.

f. Exemplary damages in an amount to be proven at trial.

Wherefore, plaintiffs pray that the Court enter judgment against the defendant in an amount supported by the allegations of this Complaint, together with interest and costs thereon, and for such other and further relief as the Court deems just and equitable.

Dated this 16th day of November, 2016.

ROBERT P. SCHUSTER, P.C.

By: ______________________________

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**DEMAND FOR TRIAL BY JURY**

Plaintiffs hereby demand that all issues regarding all claims for relief above be tried by a jury.

Dated this 16th day of November, 2016.

By: ______________________________
Robert P. Schuster